



**CITY COMMISSION AGENDA  
CITY HALL CHAMBERS  
251 W. Plant Street**

**REGULAR MEETING**

**MAY 22, 2008**

**6:30 P.M.**

**CALL TO ORDER**

Determination of a Quorum

Invocation and Pledge of Allegiance

**1. APPROVAL OF MINUTES**

Regular Meeting of May 8, 2008

**2. PRESENTATIONS**

A. Gift of the Centennial stained glass for the new city hall – Jerry Chicone

B. Summer programs offered at the Bay Street Church of God in Christ – Simon Thomas

**3. FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 08-29**: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, CREATING THE ARCHITECTURAL REVIEW BOARD; ESTABLISHING THE PURPOSE OF THE BOARD; ESTABLISHING PROCEDURES FOR SELECTION OF BOARD MEMBERS AND THE TERMS OF BOARD MEMBERS; ESTABLISHING THE BOUNDARIES FOR THE AREA COVERED BY THE BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for June 12, 2008** – City Manager Bollhoefer

B. **Ordinance 08-35**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98 OF THE WINTER GARDEN CITY CODE BY CREATING ARTICLE VI, AMENDING THE COMPOSITION OF THE MEMBERS OF THE DEVELOPMENT REVIEW COMMITTEE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for June 12, 2008** – City Manager Bollhoefer

C. **Ordinance 08-36**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 78, ARTICLE I, TO CREATE SECTION 78-2, CITY OF WINTER GARDEN CODE OF ORDINANCES AND AMENDING CHAPTER 110, ARTICLE IV, TO CREATE SECTION 110-232; REQUIRING NEW DEVELOPMENTS TO EXTEND POTABLE WATER, RECLAIMED WATER AND SANITARY SEWER MAIN LINES AT THE DEVELOPMENT'S EXPENSE; REQUIRING NEW DEVELOPMENTS TO OVERSIZE UTILITY MAIN LINES AS REQUESTED BY THE CITY SUBJECT TO THE REIMBURSEMENT OF OVERSIZING COSTS BY THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE **with the**

**second reading and public hearing being scheduled for June 12, 2008 – Planning  
Director Williams**

**4. REGULAR BUSINESS**

- A. Request for temporary open-air vendor and tent permit by First American Fireworks Company to sell State approved sparklers June 28 – July 5, 2008 (9 days) in the K-Mart Shopping Center – Building Official Lukert
- B. **Resolution 08-11**: A RESOLUTION OF THE CITY OF WINTER GARDEN OPPOSING AN AMENDMENT TO THE FLORIDA CONSTITUTION THAT WOULD FORCE VOTERS TO DECIDE ALL CHANGES TO A CITY OR COUNTY'S COMPREHENSIVE PLAN – City Manager Bollhoefer
- C. Consideration of transmitting the major issues list for the State mandated Evaluation and Appraisal Report – Planning Director Williams
- D. Recommendation to approve entering into a settlement agreement with Wade Bradford and Crown Point Springs Homeowners Association, Inc. for the repair of their five retention ponds – City Manager Bollhoefer

**5. MATTERS FROM CITIZENS** *(Limited to 3 minutes per speaker)*

**6. MATTERS FROM CITY ATTORNEY** – Kurt Ardaman

**7. MATTERS FROM CITY MANAGER** – Mike Bollhoefer

**8. MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a regular City Commission meeting on June 12, 2008 in City Hall Chambers

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 251 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

**Ordinance 08-29**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN FLORIDA, AMENDING CHAPTER 118 OF THE CITY CODE TO CREATE ARTICLE XI, SECTIONS 118-1600 THROUGH 118-1602; ESTABLISHING THE ARCHITECTURAL REVIEW AND HISTORICAL PRESERVATION BOARD; ESTABLISHING THE PURPOSE OF THE BOARD; ESTABLISHING PROCEDURES FOR SELECTION OF BOARD MEMBERS AND THE TERMS OF BOARD MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the historic districts, structures and neighborhoods of Winter Garden serve as visible reminders of the history and cultural heritage of the city; and

**WHEREAS**, the city commission finds that the preservation of the character and appearances of these districts, structures and neighborhoods is a public purpose benefiting the educational, cultural and economic welfare of the citizens of the city; and

**WHEREAS**, the city commission believes it is important to include citizen input in formulating policies to accomplish this goal; and

**WHEREAS**, creating an architectural review and historical preservation board is the best way to include involvement from interested parties; and

**WHEREAS**, the board should include citizens, experts, members of local organizations and property owners to ensure there is diverse representation on the board.

**WHEREAS**, this board should work with the commission to designate the structures, districts, and other matters within the city that should be protected; and

**WHEREAS**, the board should work with the commission to create architectural standards to protect these districts, structures and other matters within the city.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:**

**SECTION 1: Authority:** The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**SECTION 2: Adoption:** Chapter 118 of the Winter Garden Code of Ordinances is hereby amended to create Article XI and following sections to read as follows:

**ARTICLE XI. Architectural Review and Historical Preservation Board and Regulations  
Pertaining to Architectural Districts, Historic Districts and Historical Sites  
Sec. 118-1600 Purpose**

The Architectural Review and Historical Preservation Board is hereby established for the purpose of protecting historical and cultural resources located within the city limits.

**Sec. 118-1601 Board membership, officers, etc.**

(a) *Membership.*

(1) The Board shall have seven members appointed by the city commission. One member of the board shall be a registered architect. One member shall be a licensed general contractor, preferably with experience with historical renovations. One member shall be a member of the Winter Garden Heritage Foundation Board. One member shall own property in Winter Garden's downtown C-1 zoning district. The remaining 3 member appointments shall be City of Winter Garden residents and be made on the basis of civic pride, integrity, experience, and interest in the field of historic preservation.

(2) Each member shall be appointed to serve a three-year term except that, initially in order to establish staggered terms, two members shall be appointed to serve a term of one year, three members shall be appointed to serve a term of two years, and two members shall be appointed to serve a term of three years. No person may serve more than two consecutive three-year terms. Persons disqualified by this provision may be reappointed after one year elapses after the expiration of the second term of service.

(3) When a position becomes vacant before the end of the term, the city commission shall appoint a substitute member within 60 days to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve on the Board until a successor is appointed and qualified.

(4) An individual who misses three regularly scheduled meetings during any calendar year without good cause shall be deemed to have resigned that individual's membership on the board and is not eligible for reappointment to the Board or any other city board for at least one year. In that event, the city clerk shall notify the individual that the individual's position on the Board will be declared vacant by the city commission at the next regularly scheduled city commission meeting unless the individual demonstrates good cause for having been absent. The city commission may at any time terminate the appointment of and remove any Board member for cause including, but not limited to, a member's excessive absences, violation of City Charter or City Code, violation of the Government in the Sunshine Law, malfeasance, misfeasance, neglect of duty, habitual drunkenness or impairment, incompetence, permanent inability to perform duty and conflicts of interest, upon giving notice and an opportunity to be heard. The city commission shall take any and all action it deems appropriate in its sole discretion.

(5) *Officers.* The members of the Board shall annually elect a chair and vice chair from among the members and may create and appoint other officers of the Board, as the Board deems necessary.

(6) *Staffing.* The City shall provide professional and administrative staff as needed and fiscal support subject to budgetary approval by the city commission.

(7) *Compensation.* Members shall not be compensated but shall be reimbursed by the city for necessary expenses incurred in connection with their duties

(8) *Funding.* The city commission shall appropriate funds to the Board to perform its prescribed functions.

(9) *Required meetings.* The Board shall meet twelve times each year, all meetings will be appropriately noticed and minutes of each meeting shall be kept. Meetings will be conducted according to rules of procedure adopted by the Board. All meetings of the Board shall be open to the public and shall operate under the provisions of F.S. Chapter 286 (The Government in the Sunshine Law).

**Sec. 116-1602 General functions, powers and duties.**

(a) *Generally.* It shall be the general responsibility of the City to take appropriate action to ensure that the provisions of this Article are implemented.

(b) *Specifically.* It shall be the specific responsibility of the Architectural Review and Historical Preservation Board to:

(1) Create and update the official inventory of cultural resources of the city and submit to the city commission recommendations and documentation concerning the updating.

(2) Develop programs to stimulate public interest in urban neighborhood conservation, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect urban neighborhood conservation policies and goals.

(3) Explore funding and grant sources and advise property owners concerning which sources might be available for identification, protection, enhancement, perpetuation, and use of historic, architectural, archeological and cultural resources.

(4) Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect historic preservation concerns and policies, and assist in the development of proposed and future land use plans.

(5) Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.

(6) Advise the city commission concerning the effects of local governmental actions on cultural resources.

(7) Recommend the designation of sites, buildings, structures, objects, and districts, both public and private, as historically or architecturally significant.

(8) Develop architectural standards for designated historic sites, buildings, structures, objects and districts and present standards to the city commission for approval. All standards will require an enabling ordinance adopted by the city commission.

(9) Develop criteria for designating local historic landmarks and present criteria to the city commission for approval. All criteria will require an enabling ordinance adopted by the city commission.

(10) Develop policies and procedures for administering all approved ordinances regarding architectural and historical districts, historical sites and present such

policies and procedures to the city commission for approval. All policies and procedures will require an enabling ordinance adopted by the city commission.

(11) Notify the City Manager who shall take appropriate action when it appears that there has not been compliance with the historic preservation regulations of the city.

(12) Assist in developing a historic preservation element to be incorporated into the City of Winter Garden's Comprehensive Plan and, if necessary, make recommendations for amendments to historic preservation goals, objectives and policies in the plan.

**SECTION 3: Codification:** Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

**SECTION 4: Control:** In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

**SECTION 5: Severability:** It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**SECTION 6: Effective Date:** This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING:** \_\_\_\_\_, 2008.

**SECOND READING AND PUBLIC HEARING:** \_\_\_\_\_, 2008.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

\_\_\_\_\_  
John Rees, Mayor/Commissioner

ATTEST:

\_\_\_\_\_  
KATHY GOLDEN, City Clerk

**ORDINANCE 08-35**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA,  
AMENDING CHAPTER 98 OF THE WINTER GARDEN CITY CODE  
BY CREATING ARTICLE VI, AMENDING THE COMPOSITION OF  
THE MEMBERS OF THE DEVELOPMENT REVIEW COMMITTEE;  
PROVIDING FOR CODIFICATION; PROVIDING FOR  
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the Utilities Director position has been eliminated and the Assistant City Manager position is being eliminated; and

WHEREAS, the above mentioned positions sit on The Development Review Committee; and

WHEREAS, the City wants to replace these positions on the Development Review Committee with the Economic Development Director and the Building Official.

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I: Chapter 98 of the City of Winter Garden Code is hereby amended to add the following under Article VI entitled "Development Review Committee":

Section 98-151. DRC Members. The DRC shall consist of seven (7) voting members and five (5) non-voting attendees. All recommendations and/or determinations made by the DRC shall be decided by majority vote of the voting members. A quorum of the DRC is made of any four (4) voting members. The voting members are:

- City Planning Director (or his/her designee), Chairman
- Economic Development Director (or his/her designee)
- Building Official (or his/her designee)
- ~~Assistant City Manager (or his/her designee)~~
- City Engineer (or his/her designee)
- ~~Utilities Director (or his/her designee)~~
- Assistant to the City Manager in Charge of Public Services ~~Works Director~~ (or his/her designee)
- Assistant City Engineer (or his/her designee)
- City Manager (or his/her designee)

SECTION II. INCONSISTENCY. If any Ordinances or parts of Ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION III. SEVERABILITY. If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION IV. CODIFICATION. That Section I of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word.

SECTION V. This Ordinance shall become effective upon approval by the City Commission at its second reading.

FIRST READING: \_\_\_\_\_ May 22 \_\_\_\_\_, 2008.

SECOND READING: \_\_\_\_\_, 2008.

APPROVED:

---

John Rees, Mayor/Commissioner

ATTEST:

---

Kathy Golden, City Clerk



**ORDINANCE 08-36**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 78, ARTICLE I, TO CREATE SECTION 78-2, CITY OF WINTER GARDEN CODE OF ORDINANCES AND AMENDING CHAPTER 110, ARTICLE IV, TO CREATE SECTION 110-232; REQUIRING NEW DEVELOPMENTS TO EXTEND POTABLE WATER, RECLAIMED WATER AND SANITARY SEWER MAIN LINES AT THE DEVELOPMENT'S EXPENSE; REQUIRING NEW DEVELOPMENTS TO OVERSIZE UTILITY MAIN LINES AS REQUESTED BY THE CITY SUBJECT TO THE REIMBURSEMENT OF OVERSIZING COSTS BY THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, it is essential to the health and welfare of the citizens of the City of Winter Garden that effective, efficient and safe potable water, reclaimed water and sanitary sewer connections be made to developments within the City; and

**WHEREAS**, to facilitate the connection of development to effective, efficient and safe potable water, reclaimed water and sanitary sewer connections, the City Commission finds it necessary to require new developments to install main lines to the development and along the development's entire frontage along public rights-of-way.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:**

**Section I**      **Adoption.** Section 78-2 of the City of Winter Garden Code is created to read as follows:

**Sec. 78-2. Developments to Extend Utility Mains.**

(a)      **Extension of Main Lines.** All new developments requiring subdivision or site plan approval shall cause the installation of potable water, reclaimed water and sanitary sewer main lines extending from their current terminus to the new development and along the development's entire frontage along public rights-of-way, at the expense of the owner or developer of said development. The size of the potable water, reclaimed water and sanitary sewer main lines installed shall be at the size determined by the City Engineer as necessary to support the development. Said main lines shall be designed, permitted, installed and constructed in accordance with the City's Code, regulations, policies and requirements and in accordance with City approved plans and permits. Prior to the installation of main lines, the owner or developer shall obtain the City's approval of plans for installation of the main lines and secure any necessary permits. The development may, if determined by the City to be necessary, be required to grant the City utilities easements of a reasonable width to accommodate the perpetual operation, maintenance, repair and replacement of said main lines over a portion of the property being developed. The owner and developer shall not be entitled to impact fee credits for the installation of main lines. As used in this Section, the term "main lines" shall mean all potable water, reclaimed water and sanitary sewer main lines required to be installed in conformance with the City's master utility plans.

(b)      **Oversizing of Main Lines.** The City may require the development to install main lines or any portion thereof to a size larger or length longer than ordinarily required as determined by the City Engineer (referred to as "oversize" or "oversizing"). In the event the City requires the development to oversize main lines, or any portion thereof, the City shall reimburse the owner or developer for the additional reasonable costs incurred for oversizing the main lines, at an amount approved as reasonable by the City Engineer. The City will reimburse the owner or developer for oversizing costs within 60 days after completion, inspection, acceptance and invoicing for the installation of the main lines as described in subsection (c).

(c)      **Completion of Main Lines.** Upon completion of the installation of the main lines, the owner or developer of the development shall have the City Engineer inspect such improvements, obtain a **certificate of** completion from

the City Engineer for main lines. As a condition precedent to receiving a certificate of completion for such main lines, owner or developer shall execute and deliver to the City:

- (i) invoices for construction costs of the main lines;
- (ii) a one (1) year maintenance bond or irrevocable letter of credit in an amount equal to 20 percent of the main lines construction costs (construction cost amount to be approved by City Engineer) and in a form approved by the City Attorney;
- (iii) a bill of sale conveying the main lines to the City with an assignment of any associated warranties; and
- (iv) a release or waiver of liens from all contractors, subcontractors, materialmen and laborers involved in the installation of the main lines.

No certificates of occupancy shall be issued for any part of the development until issuance of a certificate of completion by the City Engineer and completion of items (i) - (iv) above. The main lines shall be deemed completed upon owner or developer satisfying all of the conditions of this subsection (c).

(d) Main Line Extension Agreement. The City may require the owner and developer of a development to enter into an agreement with the City concerning installation of main lines, reimbursement of any oversizing costs and other matters relating to the requirements of this Section.

(e) De minimus Exemptions. The Development Review Committee may grant exemptions to this Section, or portions thereof, for low intensity or density developments having de minimus impacts to public utility infrastructure. For the purpose of this Section only, a development having three (3) or less single-family residential units, or their equivalent density or intensity shall constitute a development having a de minimus impact to public utility infrastructure.

**Section II**      **Adoption.** Section 110-232 of the City of Winter Garden Code is created to read as follows:

**Sec. 110-232. Extension of Utility Mains.** Installation of potable water, reclaimed water and sanitary sewer main lines to and adjacent to the subdivisions shall occur in accordance with Section 78-2.

**Section III**      **Conflicts.** In the event of a conflict or conflicts between this ordinance and other ordinances, this Ordinance controls.

**Section IV**      **Severability.** If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**Section V**      **Codification.** Sections I and II of this Ordinance shall be codified.

**Section VI**      **Effective Date.** This Ordinance shall become effective upon approval by the City Commission at its second reading.

FIRST READING: \_\_\_\_\_ 2008.

SECOND READING AND PUBLIC HEARING: \_\_\_\_\_ 2008.

APPROVED:

\_\_\_\_\_  
John Rees, Mayor/Commissioner

City of Winter Garden Regular Commission meeting agenda  
May 22, 2008

ATTEST:

---

KATHY GOLDEN, City Clerk

s:\aka\clients\winter garden\general w500-20501\utility line extension ordinance\utility line extension ordinance.doc

**RESOLUTION 08-11**

**A RESOLUTION OF THE CITY OF WINTER GARDEN OPPOSING AN  
AMENDMENT TO THE FLORIDA CONSTITUTION THAT WOULD  
FORCE VOTERS TO DECIDE ALL CHANGES TO A CITY OR  
COUNTY'S COMPREHENSIVE PLAN**

**WHEREAS**, the State of Florida is experiencing tremendous growth; and

**WHEREAS**, the challenges presented by growth require that local governments embrace smart growth policies aimed at protecting our State's quality of life, engendering greater economic prosperity, and equitably planning for the common good; and

**WHEREAS**, smart growth requires careful planning and direction combined with a clear and effective means of engaging the people's voice; and

**WHEREAS**, the City of Winter Garden understands that elected leaders must always empower citizens and never abandon government's primary responsibility for creating sound public policy; and

**WHEREAS**, the Florida Hometown Democracy initiative seeks to place a constitutional amendment before Florida's voters to amend Article II, Section 7, of the Florida Constitution, (Title: REFERENDA REQUIRED FOR ADOPTION OF LOCAL GOVERNMENTAL COMPREHENSIVE LAND USE PLANS); and

**WHEREAS**, this amendment constitutes a fundamental abandonment of government's responsibility to represent all its citizens; and

**WHEREAS**, this amendment will impede progress on smarter growth policies aimed at improving citizen input, enhancing public participation, and engaging every community.

**WHEREAS**, this amendment will further disenfranchise millions of Florida's already-fatigued electorate, paralyze local governments and potentially cripple vital public services including crime prevention, transportation improvement and public education; and

**WHEREAS**, this amendment poses a grave threat to Florida's unique quality of life.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:**

**Section 1.** The City of Winter Garden, Florida on having dedicated its own policies to advancing smarter growth recommends defeat of the Florida Hometown Democracy initiative and the proposed amendment to the Florida Constitution.

**Section 2.** The City urges citizens to vote "NO" on the proposed Florida Hometown Democracy amendment if it appears on any ballot.

**Section 3.** The City does not concur with Hometown Democracy's "one size fits all" approach and believes in opening a broad-based community dialogue that addresses the unique growth management concerns of our community.

**Section 4. Effective Date.** This Resolution and the appointment made herein shall take effect immediately.

PASSED AND RESOLVED this \_\_\_\_ day of \_\_\_\_\_, 2008, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

---

John Rees, Mayor/Commissioner

ATTEST:

---

Kathy Golden, City Clerk